

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAKE CHARLES DIVISION**

STATE OF LOUISIANA, STATE OF ALASKA, STATE OF ARKANSAS, COMMONWEALTH OF KENTUCKY, STATE OF MISSISSIPPI, STATE OF MISSOURI, STATE OF MONTANA, STATE OF OKLAHOMA, STATE OF SOUTH CAROLINA, STATE OF WEST VIRGINIA, and STATE OF WYOMING, and AMERICAN PETROLEUM INSTITUTE, INTERSTATE NATURAL GAS ASSOCIATION OF AMERICA, and NATIONAL HYDROPOWER ASSOCIATION, Plaintiffs, v. U.S. ENVIRONMENTAL PROTECTION AGENCY and MICHAEL REGAN, in his official capacity as Administrator of the U.S. Environmental Protection Agency, Defendants.	CIVIL ACTION NO. 2:23-cv-01714
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**CORRECTED JOINT PROPOSED BRIEFING SCHEDULE ON CROSS-MOTIONS
FOR SUMMARY JUDGMENT**

On December 4, 2023, Plaintiffs State of Louisiana, State of Alaska, State of Arkansas, Commonwealth of Kentucky, State of Mississippi, State of Missouri, State of Montana, State of Oklahoma, State of South Carolina, State of West Virginia, State of Wyoming, American Petroleum Institute, Interstate Natural Gas Association of America, and National Hydropower Association (collectively “Plaintiffs”) filed a complaint challenging the United States

Environmental Protection Agency (“EPA”) rule entitled *Clean Water Act Section 401 Water Quality Certification Improvement Rule*, 88 Fed. Reg. 66,558 (Sept. 27, 2023) (“2023 Water Quality Certification Rule”).

On January 12, 2024, State of California, California Water Resources Control Board, State of Colorado, State of Connecticut, State of Illinois, State of Maine, State of Maryland, State of Massachusetts, State of Michigan, State of Minnesota, State of New Mexico, State of New York, State of North Carolina, State of Oregon, Commonwealth of Pennsylvania, State of Rhode Island, State of Vermont, State of Washington, and the District of Columbia moved to intervene in support of Defendants (collectively “State Defendant-Intervenors”). ECF No. 40. The Court granted that motion on January 23, 2024. ECF No. 51. On February 23, 2024, the National Wildlife Federation and American Whitewater filed a motion to intervene in support of Defendants (collectively “eNGO Defendant-Intervenors”). ECF No. 82. This Court has not issued a ruling on that motion, which is unopposed.

Counsel for the parties have conferred regarding a briefing schedule and format. The parties have agreed that this case may be fully resolved by cross-motions for summary judgment. The parties therefore respectfully request that the Court approve and enter the following briefing schedule, with the noted page limits:¹

PROPOSED BRIEFING SCHEDULE AND FORMAT

- Plaintiffs’ Opening Brief (not to exceed 40 pages): May 30, 2024
- Government’s Response / Cross-motion (not to exceed 50 pages): July 30, 2024
- State Defendant-Intervenors’ Response / Cross-motion (not to exceed 20 pages): July 30, 2024

¹ The proposed briefing schedule and format assumes that eNGO Defendant-Intervenors’ unopposed motion to intervene is granted.

- eNGO Defendant-Intervenors' Response / Cross-motion (not to exceed 17 pages): July 30, 2024
- Plaintiffs' Reply/Response (not to exceed 50 pages): September 30, 2024
- Government's Reply (not to exceed 25 pages): October 30, 2024
- State Defendant-Intervenors' Reply (not to exceed 12 pages): October 30, 2024
- eNGO Defendant-Intervenors' Reply (not to exceed 8 pages): October 30, 2024

The parties respectfully request that the Court set a hearing on the motions on a date convenient for the Court as soon as practicable after the conclusion of briefing.

A proposed order is attached.

Dated: May 7, 2024

Respectfully submitted,

LIZ MURRILL

ATTORNEY GENERAL OF LOUISIANA

/s/ Tracy L. Short

Tracy L. Short (La. #23940)

Assistant Chief Deputy Attorney General

LOUISIANA DEPARTMENT OF JUSTICE

1885 N. Third Street

Baton Rouge, LA 70804

(225) 326-6766

shortt@ag.louisiana.gov

Counsel for State of Louisiana

TREG R. TAYLOR
ATTORNEY GENERAL OF ALASKA

/s/ Cameron Jimmo
Cameron Jimmo (*pro hac vice*)
Senior Assistant Attorney General
ALASKA DEPARTMENT OF LAW
1031 West Fourth Avenue, Suite 200
Anchorage, Alaska 99501
(907) 269-6457
cameron.jimmo@alaska.gov
Counsel for State of Alaska

AUSTIN KNUDSEN
ATTORNEY GENERAL OF MONTANA

/s/ Christian B. Corrigan
Christian B. Corrigan (*pro hac vice*)
Solicitor General
Peter M. Torstensen, Jr. (*pro hac vice*)
Deputy Solicitor General
215 North Sanders
P.O. Box 201401
Helena, MT 59620-1401
(406) 444-2026
christian.corrigan@mt.gov
peter.torstensen@mt.gov
Counsel for State of Montana

TIM GRIFFIN
ARKANSAS ATTORNEY GENERAL

/s/ Michael A. Cantrell
Michael A. Cantrell (*pro hac vice*)
Assistant Solicitor General
OFFICE OF THE ARKANSAS
ATTORNEY GENERAL
323 Center Street, Suite 200
Little Rock, AR 72201
(501) 682-2401
Michael.Cantrell@ArkansasAG.gov
Counsel for the State of Arkansas

GENTNER DRUMMOND
ATTORNEY GENERAL OF OKLAHOMA

/s/ Garry M. Gaskins, II
Garry M. Gaskins, II (*pro hac vice*)
Solicitor General
OFFICE OF ATTORNEY GENERAL
STATE OF OKLAHOMA
313 N.E. 21st Street
Oklahoma City, OK 73105
(405) 521-3921
Garry.Gaskins@oag.ok.gov
Counsel for State of Oklahoma

RUSSELL COLEMAN
ATTORNEY GENERAL OF KENTUCKY

/s/ Lindsey Keiser
Lindsey Leiser (*pro hac vice*)
Assistant Attorney General
KENTUCKY OFFICE OF THE ATTORNEY
GENERAL
700 Capital Avenue, Suite 118
Frankfort, Kentucky
(502) 696-5517
Counsel for the Commonwealth of Kentucky

ALAN WILSON
ATTORNEY GENERAL OF SOUTH CAROLINA

/s/ Thomas T. Hydrick
Thomas T. Hydrick (*pro hac vice*)
Assistant Deputy Solicitor General
Post Office Box 11549
Columbia, SC 29211
(803) 734-4127
thomashydrick@scag.gov
Counsel for the State of South Carolina

LYNN FITCH
ATTORNEY GENERAL OF MISSISSIPPI

/s/ Justin Matheny
Justin L. Matheny (*pro hac vice*)
Deputy Solicitor General
MISSISSIPPI ATTORNEY
GENERAL'S OFFICE
P.O. Box 220
Jackson, MS 39205
Justin.Matheny@ago.ms.gov
Counsel for State of Mississippi

ANDREW BAILEY
ATTORNEY GENERAL OF MISSOURI

/s/ Josh Divine
Josh Divine (*pro hac vice*)
Solicitor General
MISSOURI ATTORNEY
GENERAL'S OFFICE
207 West High St.
Jefferson City, MO 65101
(573) 751-8870
Josh.Divine@ago.mo.gov
Counsel for State of Missouri

PATRICK MORRISEY
ATTORNEY GENERAL OF WEST VIRGINIA

s/ Michael R. Williams
Michael R. Williams (*pro hac vice*)
Principal Deputy Solicitor General
OFFICE OF THE WEST VIRGINIA
ATTORNEY GENERAL
State Capitol, Bldg 1, Room E-26
Charleston, WV 25305
(681) 313-4550
Michael.R.Williams@wvago.gov
Counsel for State of West Virginia

BRIDGET HILL
ATTORNEY GENERAL OF WYOMING

s/ Abigail Boudewyns
Abigail Boudewyns (*pro hac vice*)
Senior Assistant Attorney General
Travis Jordan (*pro hac vice*)
Senior Assistant Attorney General
WYOMING ATTORNEY
GENERAL'S OFFICE
109 State Capitol
200 West 24th Street
Cheyenne, WY 82002
(307) 777-6946
abigail.boudewyns@wyo.gov
travis.jordan@wyo.gov
Counsel for State of Wyoming

/s/ Jeremy T. Grabill

Jeremy T. Grabill (Bar #34924)
Margaret Manning (Bar #39268)
PHELPS DUNBAR LLP
Canal Place, 365 Canal Street, Suite 2000
New Orleans, LA 70130
(504) 566-1311

jeremy.grabill@phelps.com

margaret.manning@phelps.com

*Counsel for American Petroleum Institute,
Interstate Natural Gas Association of
America, and National Hydropower
Association*

Misha Tseytlin (*pro hac vice*)

Kevin M. LeRoy (*pro hac vice*)
TROUTMAN PEPPER HAMILTON
SANDERS LLP
227 W. Monroe Street, Suite 3900
Chicago, IL 60606
(608) 999-1240

misha.tseytlin@troutman.com

Charles R. Sensiba (*pro hac vice*)

TROUTMAN PEPPER HAMILTON
SANDERS LLP
401 Ninth Street, NW, Suite 1000
Washington, DC 20004
(202) 274-2850

charles.sensiba@troutman.com

Abbey M. Thornhill (*pro hac vice*)

TROUTMAN PEPPER HAMILTON
SANDERS LLP
1001 Haxall Point, 15th Floor
Richmond, VA 23219
(804) 697-1209

abbey.thornhill@troutman.com

*Counsel for National Hydropower
Association*

George P. (Trey) Sibley, III (*pro hac vice*)

HUNTON ANDREWS KURTH LLP
Riverfront Plaza, East Tower
951 East Byrd Street
Richmond, VA 23219-4074
(804) 788-8262

gsibley@hunton.com

Deidre G. Duncan (*pro hac vice*)

Karma B. Brown (*pro hac vice*)
Erica Peterson (*pro hac vice*)
HUNTON ANDREWS KURTH LLP
2200 Pennsylvania Avenue, NW
Washington, DC 20037
(202) 955-1500

dduncan@hunton.com

kbbrown@hunton.com

epeterson@hunton.com

*Counsel for American Petroleum Institute and
Interstate Natural Gas Association of
America*

TODD KIM

Assistant Attorney General
Environment and Natural Resources Division
U.S. Department of Justice

/s/ Elisabeth H. Carter

ELISABETH H. CARTER
SAMUEL B. STRATTON
RACHEL MARTINEZ
Environmental Defense Section
U.S. Department of Justice
P.O. Box 7611
Washington, DC 20044
202-598-3141

Elisabeth.carter@usdoj.gov
Attorneys for Defendants

FOR THE STATE OF WASHINGTON

ROBERT W. FERGUSON
Attorney General

s/ Kelly T. Wood

KELLY T. WOOD
Senior Counsel
ALEXANDRIA K. DOOLITTLE
Assistant Attorney General
Washington State Attorney General's Office
P.O. Box 40117
Olympia, WA 98504-0117
Telephone: 360-586-6769
Alex.Doolittle@atg.wa.gov
Kelly.Wood@atg.wa.gov

FOR THE STATE OF CALIFORNIA

ROB BONTA
Attorney General of California

s/ Tatiana K. Gaur

TATIANA K. GAUR
BRYANT CANNON
Deputy Attorneys General
California Office of the Attorney General
300 South Spring Street, Suite 1702
Los Angeles, CA 90013
213-269-6329
Tatiana.Gaur@doj.ca.gov

FOR THE STATE OF COLORADO

PHILLIP J. WEISER
Attorney General
s/ Carrie Noteboom
CARRIE NOTEBOOM
Assistant Deputy Attorney General
Natural Resources and Environment Section
1300 Broadway, 7th Floor
Denver, CO 80203
720.508.6285
carrie.noteboom@coag.gov

FOR THE STATE OF CONNECTICUT

WILLIAM TONG
Attorney General
s/ Jill Lacedonia
Jill Lacedonia
Assistant Attorney General
165 Capitol Avenue
Hartford, CT 06106
(860) 808-5250
Jill.Lacedonia@ct.gov

FOR THE STATE OF ILLINOIS

KWAME RAOUL
Attorney General
s/ Jason E. James
Jason E. James
Assistant Attorney General
Illinois Attorney General's Office
201 W. Pointe Drive, Suite 7
Belleville, IL 62226
(872) 276-3583
jason.james@ilag.gov

FOR THE STATE OF MAINE

AARON FREY
Attorney General
s/ Jack Dafoe
JACK DAFOE
Assistant Attorney General
Office of the Maine Attorney General
6 State House Station
Augusta, Maine 04333-0006
(207) 626-8800
jack.dafoe@maine.gov

FOR THE STATE OF MARYLAND

ANTHONY G. BROWN
Attorney General
s/ Steven J. Goldstein
Steven J. Goldstein
Special Assistant Attorney General
Office of the Attorney General
200 Saint Paul Place
Baltimore, Maryland 21202
410-576-6414
sgoldstein@oag.state.md.us

FOR THE COMMONWEALTH OF MASSACHUSETTS

ANDREA JOY CAMPBELL
Attorney General
s/ Matthew Ireland
MATTHEW IRELAND
Assistant Attorney General
TURNER SMITH
Deputy Chief and Assistant Attorney General
Energy and Environment Bureau
Office of the Attorney General
One Ashburton Place, 18th Fl.
Boston, MA 02108
(617) 727-2200

FOR THE PEOPLE OF THE STATE OF MICHIGAN

DANA NESSEL
Attorney General
s/ Elizabeth Morrisseau
ELIZABETH MORRISSEAU
Assistant Attorney General
Environment, Natural Resources, and
Agriculture Division
6th Floor G. Mennen Williams Building
525 W. Ottawa Street
P.O. Box 30755
Lansing, MI 48909
(517) 335-7664
MorrisseauE@michigan.gov

FOR THE STATE OF MINNESOTA

KEITH ELLISON
Attorney General
s/ Peter N. Surdo
PETER N. SURDO
Special Assistant Attorney General
Minnesota Attorney General's Office
445 Minnesota Street
Town Square Tower Suite 1400
Saint Paul, Minnesota 55101
651.757.1061 (o)
Peter.Surdo@ag.state.mn.us

FOR THE STATE OF NEW MEXICO

RAÚL TORREZ
Attorney General
s/ William Grantham
WILLIAM GRANTHAM
Assistant Attorney General
408 Galisteo Street
Santa Fe, New Mexico 87501
(505) 717-3520
wgrantham@nmag.gov

FOR THE STATE OF NEW YORK

LETITIA JAMES
Attorney General
s/ Meredith G. Lee-Clark
MEREDITH G. LEE-CLARK
Assistant Attorney General
Office of the Attorney General
The Capitol
Albany, New York 12224
(518) 776-2401
meredith.lee-clark@ag.ny.gov

**FOR THE STATE OF NORTH
CAROLINA**

JOSHUA H. STEIN Attorney General
s/ Taylor H. Crabtree
TAYLOR H. CRABTREE
Assistant Attorney General
North Carolina Department of Justice
P.O. Box 629 Raleigh, NC 27602
(919) 716-6400
tcrabtree@ncdoj.gov

FOR THE STATE OF OREGON

ELLEN F. ROSENBLUM
Attorney General
s/ Diane Lloyd
DIANE LLOYD
Sr. Assistant Attorney General
PAUL GARRAHAN
Attorney-in-Charge, Natural Resources
Section
Oregon Department of Justice
100 SW Market Street
Portland, OR 97201
971-673-1880
diane.lloyd@doj.state.or.us
paul.garrahan@doj.state.or.us

**FOR THE COMMONWEALTH OF
PENNSYLVANIA**

MICHELLE A. HENRY
Attorney General
s/ Ann R. Johnston
ANN R. JOHNSTON
Assistant Chief Deputy Attorney General
Office of the Attorney General
Civil Environmental Enforcement Unit
Strawberry Square
14th Floor
Harrisburg, PA 17120
717-497-3678
ajohnston@attorneygeneral.gov

FOR THE STATE OF RHODE ISLAND

PETER F. NERONHA
Attorney General
s/ Alison Hoffman Carney
ALISON HOFFMAN CARNEY
Assistant Attorney General
Chief, Environment and Energy Unit
Rhode Island Office of the Attorney General
150 South Main Street
Providence, RI 02903
(401) 274-4400 ext 2116
acarney@riag.ri.gov

FOR THE STATE OF VERMONT

CHARITY R. CLARK
Attorney General
s/ Laura B. Murphy
LAURA B. MURPHY
Assistant Attorney General
Vermont Attorney General's Office
109 State Street
Montpelier, VT 05609
802-828-1059
laura.murphy@vermont.gov

FOR THE DISTRICT OF COLUMBIA

BRIAN L. SCWHALB
Attorney General
s/ Brian Caldwell
BRIAN CALDWELL
Senior Assistant Attorney General
Office of the Attorney General for the
District of Columbia
400 Sixth Street, N.W., 10th Floor
Washington, D.C. 20001
202-727-6211
Brian.Caldwell@dc.gov